

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee

v

KEITH ADAM LORD,

Defendant-Appellant.

UNPUBLISHED

July 12, 2005

No. 252847

Calhoun Circuit Court

LC No. 03-000218-FC

Before: Fitzgerald, P.J., and Meter and Owens, JJ.

PER CURIAM.

A jury convicted defendant of first-degree murder under alternate theories of both premeditation and felony murder, MCL 750.316, conspiracy to commit first-degree premeditated murder, MCL 750.157a, armed robbery, MCL 750.529, and two counts of possession of a firearm during the commission of a felony, MCL 750.227b. The trial court subsequently vacated the armed robbery conviction and one of the felony-firearm convictions. Defendant was sentenced to life imprisonment. He appeals as of right. We affirm.

The convictions in this case arise from the December 16, 2002, murder of seventy-year-old Jerry Talbert. Talbert was shot in the head and his throat was slit.

Defendant argues that the statements of Rachel Talbert and Catherine Anderson should not have been admitted because there was no independent proof that defendant conspired with Talbert and Anderson to murder the victim, and that absent the statements the evidence was not sufficient to support the conspiracy conviction. This Court reviews the trial court's rulings on the admission of evidence for an abuse of discretion. *People v Bahoda*, 448 Mich 261, 289; 531 NW2d 659 (1995). Statements of a coconspirator may be admitted as an exception to the hearsay rule if circumstances, acts, and conduct of the parties, independent of the statements, establish an agreement to commit some unlawful act. MRE 801(d)(2)(E); *People v Gay*, 149 Mich App 468, 471; 386 NW2d 556 (1986).

Such independent evidence existed in this case. Lois Coger testified that defendant, Rachel, and Catherine constantly talked about killing the victim from September 2002 through December 2002. Both Talbert and defendant told Coger that the victim had molested Rachel's daughter so they were going to kill him by slitting his throat. Defendant's cousin also testified that sometime in December 2002 defendant showed him a pistol and said that "he had to go take care of some business." On the morning of the murder, but before the body was discovered, the

victim's neighbor saw Catherine squatting down near the victim's home, then walk over to her car and get in. Additionally, Catherine led police to a dumpster where the knife was recovered, and Rachel gave police information on where to find the gun. The trial court properly admitted the statements. Viewed in a light most favorable to the prosecution, the evidence was sufficient to allow a rational trier of fact to conclude that defendant conspired with Rachel and Catherine to murder the victim.

Defendant also argues that the women's statements to police at the scene were inadmissible because they were made after the conspiracy had been completed. Statements of a conspirator are hearsay and not properly admissible against a co-conspirator unless made before the conspiracy has ended. *People v Nankervis*, 330 Mich 17, 21; 46 NW2d 592 (1951). The conspiracy involved here, however, was one to kill the victim and make it look like a random breaking and entering. Thus, even if the victim had already been killed when the women made those statements to police, the conspiracy itself was still continuing when they told police that they had come home and found the front door unlocked. See *People v Bushard*, 444 Mich 384, 396; 508 NW2d 745 (1993) (holding that a conspiracy of murder-for-hire included paying the killer after the murder had been completed).

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Patrick M. Meter
/s/ Donald S. Owens